

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ACC OF KENTUCKY LLC, A DELAWARE)
LIMITED LIABILITY COMPANY FOR ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY)
TO CONSTRUCT AN ADDITIONAL CELL FACILITY IN THE)
KENTUCKY RURAL SERVICE AREA NO. 4 WHICH INCLUDES) CASE NO.
SPENCER, ANDERSON, HARDIN, NELSON, WASHINGTON,) 99-153
MERCER, MARION, LARUE, GREEN, AND TAYLOR COUNTIES)
IN KENTUCKY (THE WHITE CITY CELL FACILITY))

O R D E R

On April 16, 1999, ACC of Kentucky LLC ("ACC of Kentucky") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 4 ("RSA No. 4"). RSA No. 4 includes Anderson, Green, Hardin, Larue, Marion, Mercer, Nelson, Spencer, Taylor, and Washington counties. ACC of Kentucky has requested authorization to construct a cell site in Larue County.

The proposed cell site consists of a 280-foot or less self-supporting antenna tower to be located at 495 White City Road, Hodgenville, Larue County, Kentucky ("the White City cell site"). The coordinates for the White City cell site are North Latitude 37° 35' 50.5" by West Longitude 85° 40' 04.3".

ACC of Kentucky has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the White City cell site. Based upon the

application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Registered Professional Engineer has certified the plans.

Pursuant to 807 KAR 5:063, Section 1, ACC of Kentucky notified the Larue County Judge/Executive of the pending construction. ACC of Kentucky has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the White City cell site. Both applications are pending.

ACC of Kentucky has filed notices verifying that each person who owns property within 500 feet of the White City cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to intervene. In addition, notices were published in a newspaper of general circulation and were posted in a visible location on the proposed site and on the nearest public road. The posted notices remained posted for at least two weeks after ACC of Kentucky's application was filed. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, ACC of Kentucky should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute

proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by ACC of Kentucky.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that ACC of Kentucky should be granted a Certificate of Public Convenience and Necessity to construct and operate the White City cell site in RSA No. 4 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. ACC of Kentucky is granted a Certificate of Public Convenience and Necessity to construct and operate the White City cell site.

2. ACC of Kentucky shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

3. ACC of Kentucky shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 30th day of July, 1999.

By the Commission

ATTEST:

Executive Director